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OLC 78- 2002/6
3 July 1978

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MEMORANDUM FOR: Acting Legislative Counsel

FROM : Chief, Legislation Staff, OLC

SUBJECT : Action Plan for H.R. 12598, the "Foreign Relations Authorization Act, Fiscal Year 1979"

1. The Senate passed H.R. 12598, which primarily authorizes appropriations for the Department of State and related agencies for FY 1979, on 28 June 1978.

a. Two provisions in the bill have been and remain of particular concern to us; these were not amended at all on the floor:

(1) Section 119: Amending the Role of the Ambassador Legislation (22 U.S.C. 2680a).

(2) Section 501: Amending the so-called "Case-Zablocki Act" (1 U.S.C. 112b).

Tab A provides background on these two matters.

b. The "Treaty Powers Resolution," section 502 of the bill, has been of interest to us. Section 502 was substantially modified on the floor (see debate in Cong. Rec. of 28 June 1978, especially page S10013, attached at Tab B) and could be of concern to us. This is so because Section 502 could be construed to require us to consult with the Foreign Relations Committee in deciding whether a particular intelligence agreement should be an "Executive Agreement" or a "treaty." In my view, however, this section is not worth making an issue of; any problems would seem to be remote and the language of the section is loose.

c. Senator McGovern, in one of many unprinted floor amendments, proposed that the Department of State organic legislation be amended so that the "third

agency" rule would no longer be available for any department or agency to deny providing any information which it possessed to the foreign affairs committees of the Congress, so long as the possessing agency was subject to the jurisdiction of those committees. Tab C provides the language of this amendment, which was adopted without debate.

d. The so-called "high-one" provision for retiring Foreign Service Officers was dropped from the bill.

2. The house passed H.R. 12598 on 31 May 1978. The House version did not contain the provisions as in the Senate bill relating to the Role of the Ambassador legislation, the Case-Zablocki Act, or treaty powers; there were no objectionable floor amendments, but the "high-one" provision remained in the House bill.

a. The House version, however, contains a distinct Title V, entitled "Science, Technology, and American Diplomacy," that is of concern to us; Tab D provides background.

3. Both Houses have appointed conferees on H.R. 12598.

a. For the Senate (all members of the Foreign Relations Committee):

John Sparkman (D., Ala.)
Clifford Case (R., N. J.)*
George McGovern (D., S.D.)
Joseph Biden (D., Dela.)*
Clairborne Pell (D., R.I.)
Charles Percy (R., Ill.)
Howard Baker (R., Tenn.)*

It should be noted that Senators McGovern and Biden have been particularly active on the Role of the Ambassador matter; Senator Case can be expected to resist interpretations of or changes to the Case-Zablocki Act that could be construed as narrowing the scope of the statute or the proposed amendments.

b. For the House (all members of the International Relations Committee):

Clement Zablocki (D., Wis.):**
Dante Fascell (D., Fla.)
Charles Diggs (D., Mich)
Lester Wolff (D., N.Y.)
Leo Rayan (D., Calif.)

*Member of the SSCI

**Member of the HPSCI

Helen Meyner (D., N. J.)
George Danielson (D., Calif.)
William Broomfield (R., Mich.)
John Buchanan (R., Ala.)
J. Herbert Burke (R., Fla.)

4. We were able to have included in the Department of State letter to Chairman Sparkman (from Douglas Bennet) on the bill, opposition to certain provisions in section 501 of the Senate bill (Case-Zablocki Act amendments); these were compromises worked out with State. There was, however, no floor discussion of section 501 and it was adopted as reported out by the Foreign Relations Committee (i. e., in a form to which we object). Doug Bennet's letter appears in Tab E; our own position is reflected in the material in Tab A.

5. No Administration position has gone to the Congress on the Science and Technology title in the House bill. OMB indicates the Administration is inclined to oppose this title; we would endorse such a position, but we would be satisfied if the provision and the report made clear that intelligence matters are not within the scope of the title (see material in Tab D).

6. Senator Goldwater raised the matter of section 119 -- Role of the Ambassador Legislation Amendment -- on the Senate floor. He noted the Intelligence Community was concerned about this provision, particularly since there had been no hearings on it. In response, Senator McGovern introduced for the record a letter to him from Senator Bayh, dated 27 June 1978, stating what purports to be the SSCI's views of section 119 -- essentially that it is in accord with the recommendations of the Church Committee and in effect is not objectionable. Senator Goldwater did obtain Senator McGovern's commitment to consider section 119 at conference and look into any necessary questions related thereto (see pages S10019-20 of the debate in the Record, attached at Tab B).

7. In my view, although we should seek to have our views reflected in an Administration views letter on H.R. 12598 for the conferees, we should seize the initiative now and start approaching conferees and the leadership of our two oversight committees.

a. Even if we are able to work out a coordinated Administration position on section 119 (Tab F is the position we had received from OMB, but which was not coordinated by Admiral Turner, Secretary Vance and OMB Director McIntyre until after Doug Bennet's letter went to the Congress; and which I sent to Doug during the Senate floor debate), the Department of State's major concerns are with other provisions in the bill-- relations with Cuba, aid to Vietnam, support for Rhodesia,

the "high-one" provision, relations with Angola, etc. -- and the Department is not likely to push our views with fervor. Also we want to make sure our equities on Title V of the House version -- the "science and technology" amendment -- are protected; nothing official has gone to the Congress yet on this. It must be kept in mind moreover, that on all these issues, State probably would be happy if all were enacted as they are.

b. We have provided our views to SSCI and HPSCI, via letters from Deputy Director Carlucci to Chairmen Bayh and Boland (Tab G). We should follow these up with high-level contacts and working-level discussions. Also, we must keep in mind that Bill Miller, SSCI Staff Director, does not agree with our positions on the amendments to the Role of the Ambassador legislation and the Case-Zablocki Act (i.e., his view is that the amendments would not really change the existing situations with respect to these laws and that clarifying legislative history to that effect is all we need).

8. The conferees are likely to meet shortly after the Congress reconvenes on Monday, 10 July 1978.

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Chief, Legislation Staff, OLC

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